

JUL 05 2006

FEDERAL ELECTION COMMISSION

999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

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DATE COMPLAINT FILED: January 10, 2005
DATE OF NOTIFICATION: January 18, 2005
LAST RESPONSE RECEIVED: March 18, 2005
DATE ACTIVATED: December 19, 2005

EXPIRATION OF SOL: July 2, 2007

COMPLAINANT: David C. Hobbs

RESPONDENTS: Bill Abbott For Preserving American Jobs and Sarah Ruth Rehmel,
in her official capacity as treasurer
William Abbott
International Brotherhood of Electrical Workers Local 2249
Glenn R. Collins, President/Business Manager, Local 2249
General Electric Company
Walter Casavecchia, Human Resources Manager, General Electric
Company

RELEVANT STATUTES: 2 U.S.C. § 441b
2 U.S.C. § 434(b)
2 U.S.C. § 432(e)(2)

INTERNAL REPORTS CHECKED: FEC Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

William Abbott, an employee at a General Electric Company subsidiary ("GE") in
Bloomington, Indiana, and a member of the Executive Board of the International Brotherhood of
Electrical Workers, Local 2249 ("Local 2249"), ran for Congress in 2002 in Indiana's 4th
District. Complainant alleges that after GE's Human Resources Manager, Walter Casavecchia,
denied Abbott a leave of absence to campaign for his 2002 Congressional race, Glenn R. Collins,
President and Business Manager of Local 2249, stated at a union meeting that he authorized

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Abbott to be compensated through union-paid vouchers for time spent campaigning during work hours, and that Abbott would reimburse Local 2249 for his wages. Complainant maintains that Casavecchia, who allegedly was aware of Abbott's campaign through media coverage and Casavecchia's denial of Abbott's requested leave of absence, approved the use of union-paid vouchers to compensate Abbott. Accordingly, complainant maintains that GE, Casavecchia, Local 2249, and Collins violated the campaign finance laws by permitting Abbott to receive compensation that did not result from *bona fide* work genuinely independent of his candidacy and that other employees absent from work would not have received.

As discussed in more detail below, this Office recommends that the Commission find reason to believe that William Abbott and Bill Abbott for Preserving American Jobs and Sarah Ruth Rehmel, in her official capacity as treasurer (the "Committee"), knowingly and willfully violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by accepting prohibited contributions, and that the Committee knowingly and willfully violated the Act for failing to report them. This Office further recommends that the Commission find reason to believe that Local 2249 and its President and Business Manager, Glenn R. Collins, knowingly and willfully violated the Act by making and consenting to the making of prohibited contributions to Abbott and the Committee.

Finally, this Office recommends that the Commission find no reason to believe that GE and its manager, Walter Casavecchia, violated 2 U.S.C. § 441b and close the file as to them.

1 **II. FACTUAL BACKGROUND**

2 To provide adequate context for the facts in this matter, it is first necessary to set forth
3 certain provisions of the 2000-2003 Collective Bargaining Agreement between GE and Local
4 2249 (the "CBA").¹ Pursuant to the CBA, GE employees who are absent from work in excess of
5 two weeks without satisfactory explanation are subject to termination and stoppage of service
6 credit accruals. The CBA also addresses time employees spend on union matters that GE or
7 Local 2249 compensates, all of which are considered excused absences from work. For
8 example, GE pays for time spent related to employee grievances, subject to limitations. Local
9 2249 pays GE employees for time spent on corporate governance and other non-grievance
10 activities. The time paid by Local 2249 is recorded on "labor vouchers," signed by the employee
11 and the union president. The vouchers are submitted to GE, and GE personnel enter them into
12 the company's computerized time-and-attendance system. GE advances to Local 2249 the funds
13 to pay the labor vouchers and GE reimburses itself by deducting the amount from employee
14 union dues, which are collected by GE.²

15 According to the joint response of Local 2249, Glenn R. Collins, President and Business
16 Manager of Local 2249, and candidate William Abbott ("Union Response"), bargaining unit
17 employees could, at one time, also seek excused absences to perform "unpaid union business"
18 that included the opportunity to "participate in political campaigns, or campaign for a political

¹ This Agreement delineates the terms and conditions of employment for the represented employees and is negotiated approximately every three years. Excerpts from the 2000-2003 CBA were attached to the response filed by GE and affidavits attached to GE's Response described relevant sections of the CBA.

² GE has assisted Local 2249 in this manner since 1991 because its computer system has the requisite capability and is less prone to error than Local 2249's former system. See GE Response at 5-6; see also Knobloch Affidavit at 1-2 (confirming the payroll process, based on the affiant's experience in performing payroll services for GE).

1 candidate.”³ Union Response at 2. However, in late July or early August 2002, GE’s
2 Casavecchia allegedly told Collins that GE would no longer excuse employees to perform unpaid
3 union business and advised that any future absences by Abbott for campaigning purposes would
4 be treated as unexcused absences. Collins allegedly requested a personal leave of absence for
5 Abbott, which he claims Casavecchia denied.⁴

6 Because Abbott had exhausted his contractual vacation and personal leave time, future
7 campaigning during work hours would constitute unexcused time, which might have subjected
8 Abbott to termination. *See* Union Response at 2. To prevent this outcome, Collins authorized
9 Local 2249 to use the union-paid labor voucher system, which would make it seem to GE as if
10 Abbott was performing union-paid activity when Abbott actually was using unexcused time to
11 campaign for Federal office. *See* Union Response at 3. This plan was made known within Local
12 2249 as evidenced by the following statement in the Union Response: “Collins went before
13 Local 2249’s Executive Board and a monthly union meeting to announce that Local 2249 would
14 use the voucher system to excuse Abbott from work as paid time off for conducting union
15 business.” Union Response at 3. Local 2249 admits it compensated Abbott in this manner
16 during the period of August 15, 2002 to October 30, 2002, for a total of 224.83 hours and total
17 gross wages of \$4,779.91. *Id.* According to the Union Response, Abbott reimbursed Local 2249
18 for the entire amount, usually within a few days of each disbursement. *Id.*

³ Neither the Committee nor Sarah Ruth Rehmel, treasurer of the Committee, submitted a separate response. They have the same counsel in this matter as Abbott, however, and through him have indicated that they adopt the response sent on behalf of William Abbott and Local 2249.

⁴ Casavecchia, on the other hand, avers that no leave of absence request was made on Abbott’s behalf *See* Casavecchia Affidavit at 2.

1 **III. ANALYSIS**

2 The Act prohibits corporations and labor organizations from making, and their officers
3 from consenting to, contributions in connection with any Federal election and prohibits
4 candidates and political committees from accepting contributions from such sources.
5 2 U.S.C. § 441b(a).⁵ A “contribution or expenditure” shall include “any direct or indirect
6 payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of
7 value . . . to any candidate.” 2 U.S.C. § 441b(b)(2). Commission regulations further provide that
8 payments that are compensation [to a candidate] shall be considered contributions unless—

9 (A) The compensation results from *bona fide* employment that is genuinely
10 independent of the candidacy;

11
12 (B) The compensation is exclusively in consideration of services provided by the
13 employee as part of this employment; and

14
15 (C) The compensation does not exceed the amount of compensation which would be
16 paid to any other similarly qualified person for the same work over the same
17 period of time.

18
19 11 C.F.R. § 113.1(g)(6)(iii). In addition, the Act requires that committee treasurers report all
20 receipts and disbursements. 2 U.S.C. § 434(b). Abbott was an agent of his Committee pursuant
21 to 2 U.S.C. § 432(e)(2).

22 Local 2249 concedes that it compensated Abbott for time spent campaigning, and that
23 Collins consented to this arrangement. *See* Union Response at 3. Not only did Local 2249 thus
24 give “something of value” to a candidate by permitting him to stay employed when he exceeded
25 the number of excused absence days, but the compensation it paid Abbott also constituted a

⁵ All of the events recounted in this agreement occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 (“BCRA”), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, all citations to the Federal Election Campaign Act of 1971, as amended (“the Act”), herein are to the Act as it read prior to the effective date of BCRA. Likewise, all citations to the Commission’s regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission’s promulgation of regulations under BCRA.

1 “contribution” since it was not for *bona fide* employment, genuinely independent of Abbott’s
2 candidacy, in consideration of services provided by Abbott as part of his employment, or
3 equivalent to what would permissibly be paid to similarly situated employees. Pursuant to the
4 applicable procedures, both Collins, as president of Local 2249, and Abbott, as the recipient
5 employee, would have had to sign the false labor vouchers before submitting them to GE.
6 Abbott accepted the payments and his campaign committee did not report them. Accordingly,
7 based on the admissions in the response and the lack of disclosures on the public record, it
8 appears that there is reason to believe that Local 2249 made prohibited contributions, to which
9 Collins consented, and that Abbott and his Committee accepted prohibited contributions and
10 failed to report them.

11 The Act penalizes more heavily violations that are knowing and willful.
12 2 U.S.C. §§ 437g(a)(5)(B), (6)(c), and (d)(1). To be liable for a knowing and willful violation,
13 respondents must act with the knowledge that they are violating the law. *Federal Election*
14 *Commission v. John A. Dramesi for Congress Committee*, 640 F. Supp. 985 (D. N.J. 1986). A
15 knowing and willful violation may be established by “proof that the defendant acted deliberately
16 and with knowledge that the representation was false.” *United States v. Hopkins*, 916 F.2d 207,
17 214 (5th Cir. 1990). An inference of a knowing and willful violation may be drawn “from the
18 defendants’ elaborate scheme for disguising” their actions and that they “deliberately conveyed
19 information they knew to be false to the Federal Election Commission.” *Id.* at 214-215. “It has
20 long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms
21 of motivation to evade’ lawful obligations.” *Id.* at 214, citing *Ingram v. United States*, 360 U.S.
22 672, 679 (1959).

1 The Act's prohibition on contributions from corporations and labor organizations to
2 Federal candidates is long-standing and straightforward. Moreover, the prohibition is
3 memorialized in GE Policy 20.4, which states that GE's standard of conduct is to never provide
4 "anything of value to any government official, political candidate, or political party in the U.S. or
5 abroad" or "paid-leave time to employees for political activity (not including vac., hols.)."
6 See Exhibit B to GE Response. While the Union Response denies that Collins intended to
7 violate Federal law in executing the compensation scheme, it does not seem credible that an
8 officer of Local 2249 and its Executive Board were unaware that advancing labor organization
9 treasury funds to a Federal candidate is unlawful, or that they were not cognizant of the legal
10 underpinnings of GE's policy.

11 The apparent knowing and willful nature of the violation is further demonstrated by the
12 deliberate scheme admitted to in the Union Response, which Local 2249 and Collins devised to
13 hide from GE the true nature of the payments to Abbott by disguising them as compensation for
14 legitimate union-paid business. That the candidate may have reimbursed the payments to Local
15 2249 would not seem to negate the knowing and willful character of the activity. Moreover, it
16 was inevitable that the scheme would result in the Committee's failure to satisfy public
17 disclosure requirements. Because the true nature of the payments were deliberately disguised, it
18 appears that Local 2249 and Collins knew that Abbott's campaign committee would not be
19 reporting the payments to him as contributions and, therefore, that inaccurate information would
20 be conveyed to the Commission and to the public. As the beneficiary of the deceptive scheme,
21 and a participant in it, it appears that Abbott, who was a member of Local 2249's Executive
22 Board and a Federal candidate, knew that he was accepting funds from a labor organization that
23 were not for *bona fide* work genuinely independent of his candidacy. Since the purpose of the

1 scheme was to hide the true purpose of the payments, it appears that Abbott also knew that his
2 Committee's obligations to report the contributions would not be and were not met.

3 Accordingly, this Office recommends that the Commission find reason to believe that
4 William Abbott, and his 2002 campaign committee, Bill Abbott for Preserving American Jobs,
5 and Sarah Ruth Rehmel, in her official capacity as treasurer, knowingly and willfully violated
6 2 U.S.C. § 441b(a) by accepting prohibited contributions, and that Bill Abbott for Preserving
7 American Jobs and Sarah Ruth Rehmel, in her official capacity as treasurer, knowingly and
8 willfully violated 2 U.S.C. § 434(b) by failing to report them. This Office further recommends
9 that the Commission find reason to believe that International Brotherhood of Electrical Workers
10 Local 2249 and its President and Business Manager, Glenn R. Collins, knowingly and willfully
11 violated 2 U.S.C. § 441b(a) by making and consenting to the making of prohibited contributions.

12 That leaves the question of whether GE has any liability for advancing funds for Abbott's
13 salary payments prior to reimbursing itself from the union dues, or for any savings payments by
14 Abbott it may have matched, or for the value of any fringe benefits Abbott may have obtained
15 based in part on the service or wages he accrued while campaigning. We conclude it does not.

16 Local 2249 does not claim, and the complainant claims no personal knowledge, that GE's
17 Casavecchia was a party to the arrangement to compensate Abbott through union-paid labor
18 vouchers while campaigning. Casavecchia specifically denies that he had knowledge that
19 Collins authorized Abbott to be compensated through union-paid vouchers and that Abbott was
20 going to reimburse the union for his wages. *See* Casavecchia Affidavit at 2. Further, he states,
21 "I know that it violates federal law and GE policy to make Company contributions to political
22 candidates," and "that granting an employee paid leave is making a prohibited contribution." *Id.*
23 Finally, although the complainant alleges that Casavecchia accepted and approved the labor

1 vouchers permitting Abbott to receive compensation and benefits, Casavecchia avers that GE
2 employee, Michael Baran, not he, plays that role at GE. Baran's affidavit, attached to GE's
3 response, supports Casavecchia on this point.⁶

4 Baran, GE's shop floor liaison with Local 2249, states that he receives the labor vouchers
5 that are filed to document time spent on union business, and he personally input Abbott's union
6 time in 2002. He states he "relied on the Union president's signature that Abbott was engaged in
7 lawful union activities when I input his 2002 Union-paid time into the time and attendance
8 system." See Baran Affidavit at 2. According to Baran, "I did not know that [Abbott] was using
9 his vouchered time to campaign for Congress. I cannot even attest that I knew he was running
10 for office." *Id.* Nor did the numbers of union-paid hours submitted for Abbott in 2002 raise red
11 flags for Baran since in that year new union officers were elected and total union-paid time
12 increased significantly over the previous year. According to Baran, since Abbott was an
13 incumbent and reelected Executive Board member, the increase in his union-paid hours in 2002
14 did not surprise him. *Id.* at 3.⁷

15 Based on the sworn representations, it does not appear that Casavecchia, Baran or GE
16 knew that the unlawful activity at issue was occurring.⁸ Rather, GE was obligated under its CBA
17 with Local 2249 to continue Abbott's employment and fringe benefits since it appeared, as a

⁶ Moreover, Casavecchia denies that anyone from Local 2249 ever asked him to grant a leave of absence for Abbott. See Casavecchia Affidavit at 2. According to Casavecchia, had Abbott requested a leave of absence, "I would have instructed him to take vacation time if he wanted to continue his income while campaigning." *Id.* Vivien Jacoby, GE Manager of Engineering and lead ombudsman for GE's Consumer & Industrial business, states in her affidavit that she has counseled employees that they must either take vacation time to campaign or campaign on non-work time, as it violates both law and company policy to allow employees paid leave for such activities. According to Jacoby, Abbott did not ask her for guidance. See Jacoby Affidavit at 3.

⁷ Baran also points out Abbott was a second shift employee who could have campaigned all day without taking time off from work. See Baran Affidavit at 2.

⁸ Not only was GE apparently unaware of the compensation scheme, it is also not the obligor for payments made to employees for union-paid time. Rather, Local 2249 pays the FICA and FUTA obligations on union-paid salaries. See GE Response at 12.

1 result of the scheme, that Abbott was performing legitimate union business. Therefore, this
2 Office recommends that the Commission find no reason to believe that General Electric
3 Company and its manager, Walter Casavecchia, violated 2 U.S.C. § 441b(a) and close the file as
4 to these Respondents.

5 **IV. DISCUSSION OF CONCILIATION AND CIVIL PENALTIES**

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V. RECOMMENDATIONS

- 1 Find reason to believe that William Abbott knowingly and willfully violated
2 U.S.C. § 441b(a).
- 2 Find reason to believe that Bill Abbott for the Preservation of American Jobs and
Sarah Ruth Rehmel, in her official capacity as treasurer, knowingly and willfully
violated 2 U.S.C. §§ 441b(a) and 434(b).
3. Find reason to believe that International Brotherhood of Electrical Workers Local
2249 knowingly and willfully violated 2 U.S.C. § 441b(a).
4. Find reason to believe that Glenn R. Collins knowingly and willfully violated
2 U.S.C. § 441b(a).
5. Find no reason to believe General Electric Company violated 2 U.S.C. § 441b(a),
and close the file as to this respondent.

6. Find no reason to believe Walter Casavecchia violated 2 U.S.C. § 441b(a), and close the file as to this respondent.

7.

8. Approve the attached Factual and Legal Analyses.

9.

10.

11. Approve the appropriate letters.

Lawrence H. Norton
General Counsel

Rhonda J. Vosdingh
Associate General Counsel

Date

7/5/06

BY:

Susan L. Lebeaux
Susan L. Lebeaux
Assistant General Counsel

Claire N. Rajan
Claire N. Rajan
Attorney

Attachments:

1.

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3 Factual and Legal Analysis for William Abbott and Bill Abbott for the Preservation of American Jobs and Sarah Ruth Rehmel, in her official capacity as treasurer.

- 1 4. Factual and Legal Analysis for International Brotherhood of Electrical Workers
- 2 Local 2249 and Glenn R. Collins, President/Business Manager, Local 2249.

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